THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 22466 of 2007

Dated: 25.10.2007

Between:

Kurri Ramanaidu
& others.

... Petitioners

AND

The District Collector,
East Godavari District at Kakinada,
& others.

... Respondents

Counsel for the petitioners : Sri K. Venkatesh

Counsel for the respondents : Assistant Government Pleader for Land Acquisition

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 22466 of 2007

ORDER:-

This writ petition is filed for a writ of mandamus to declare the action of the respondents in dispossessing the petitioners from their land to an extent of Ac.0.85 cents in Sy.No.152/1 and 2 and Ac.1.00 cents in Sy.No.137/2 situated in G.Medapadu Village, Samalkot Mandal, East Godavari District in pursuance of notification dated 27.05.2007 issued under Section 4 (1) of the Land Acquisition Act, 1894 (for short, 'the Act'), as illegal and arbitrary.

At the hearing, learned counsel for the petitioners submitted that though the land of Ac.0.93 cents in Sy.No.155/2 of G.Medapadu Village does not belong to the petitioners, respondent No.3 and his subordinates have been seeking to dispossess a similar extent owned by petitioner No.1 situate adjacent to the land notified in the notification issued under Section 4 (1) of the Act. He further stated that in respect of the extent of Ac.1.00 cents in Sy.No.137/2 of the same village, petitioner Nos.2 and 3, who are minors and represented by their father and natural guardian, are the owners of the land and that on their behalf objections were filed before respondent No.2 against the proposed acquisition. Learned counsel further submitted that in spite of the pendency of the objections, which are not disposed of so far, and declaration under Section 6 of the Act having not been made, respondent No.3

visited the lands of the petitioners on 17.10.2007 and sought to dispossess them from their respective lands.

I am unable to comprehend a situation where the respondents having already initiated proceedings under the Act, would midway abandon the statutory procedure and take recourse to the action of highhanded dispossession without following the due process of law. Once a notification under Section 4 (1) of the Act is issued and enquiry under Section
5-A of the Act was not dispensed with, it is incumbent upon the competent authority under the provisions of the Act to scrupulously follow the procedure prescribed therein.

I have absolutely no reason to believe that the respondents would, without considering and overruling the objections and without causing the declaration under Section 6 of the Act published, dispossess the petitioners from their land. In any event, in view of the allegation made by the petitioner that on 17.10.2007 respondent No.3 took measurements and sought to take possession, I deem it appropriate to dispose of the writ petition with the following directions:

1) The respondents shall consider the objections of the petitioners, if they have not already been considered.

2) On consideration of the objections, if they are satisfied that the land of petitioner No.1 need not be subjected to acquisition, they shall not proceed further. On the other hand, if they come to the opposite conclusion, it is open to them to take further proceedings in accordance with the provisions of the Act.

3) As regards the land belonging to petitioner Nos.2 and 3, the competent authority shall consider their objections against acquisition and pass appropriate

orders. In the event of the objections being overruled and the respondents seeking to proceed further, the petitioners shall not be dispossessed until a declaration under Section 6 of the Act is made and the statutory formalities are complied with.

As a sequel to disposal of the writ petition, WPMP.No.29187 of 2007 filed by the petitioners for interim relief is disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

Date: 25.10.2007
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